

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

FOREST SERVICE EMPLOYEES FOR
ENVIRONMENTAL ETHICS,
DAN BECKER,

Plaintiffs,

Civil No. 05-553-PK

v.

O R D E R

UNITED STATES FOREST SERVICE,
Defendant,

D.R. JOHNSON LUMBER COMPANY,
Defendant-Intervenor.

HAGGERTY, Chief Judge:

Magistrate Judge Papak issued a Findings and Recommendation [106] in this action recommending that this case should be dismissed as moot and that plaintiff's Motion for Summary Judgment [68], defendant's Motion for Summary Judgment [79] and Motion to Strike [77], and defendant-intervenor's Motion for Summary Judgment [83] should be denied as moot. No objections were filed, and the case was referred to me.

The matter is now before me pursuant to 28 U.S.C. § 636(b)(1)(B) and Federal Rule of Civil Procedure 72(b). When no timely objection is filed, the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation of the Magistrate. *Campbell v. United States Dist. Court*, 501 F.2d 196 (9th Cir. 1974).

No clear error appears on the face of the record. This court adopts the Magistrate Judge's analysis that the trees put into issue in this case have been cut, and that this court can no longer order any effective relief that will mitigate the harm plaintiffs Becker allege. Findings and Recommendation at 8. This court also adopts the Findings and Recommendation's analysis of plaintiffs' supplemental authority that concluded that the Ninth Circuit's decision in *Earth Island Institute v. U.S. Forest Service*, No. 05-16776 (9th Cir. March 24, 2006) fails to alter this conclusion.

CONCLUSION

The Magistrate Judge's Findings and Recommendation [106] is adopted. This case is dismissed as moot and plaintiff's Motion for Summary Judgment [68], defendant's Motion for Summary Judgment [79] and Motion to Strike [77], and defendant-intervenor's Motion for Summary Judgment [83] are denied as moot.

IT IS SO ORDERED.

Dated this 16_ day of May, 2006.

/s/Ancer L.Haggerty

Ancer L. Haggerty
United States District Judge